

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #15	CCRB Case #: 201906279	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/08/2019 2:00 PM	Location of Incident: West 116th Street and Lenox Avenue; 28th Precinct stationhouse	Precinct: 28	18 Mo. SOL 10/8/2020	EO SOL 5/25/2021	
Date/Time CV Reported Wed, 07/17/2019 11:40 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 07/17/2019 11:40 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Brianna Gordon	21674	959462	028 PCT
2. LT Senta Caleb	00000	934563	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Montalvo	17893	960961	028 PCT
2. DTS Alberto Pizarro	04954	934070	028 PCT
3. SGT Jose Hernandez	04180	936756	INT CIS

Officer(s)	Allegation	Investigator Recommendation
A.LT Senta Caleb	Abuse: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb stopped the vehicle in which § 87(2)(b) was an occupant.	
B.LT Senta Caleb	Abuse: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb stopped the vehicle in which § 87(2)(b) was an occupant.	
C.LT Senta Caleb	Abuse: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb searched the vehicle in which § 87(2)(b) was an occupant.	
D.LT Senta Caleb	Abuse: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb searched the vehicle in which § 87(2)(b) was an occupant.	
E.LT Senta Caleb	Abuse: At the 28th Precinct stationhouse in Manhattan, Lieutenant Senta Caleb strip-searched § 87(2)(b)	
F.POF Brianna Gordon	Abuse: At the 28th Precinct stationhouse in Manhattan, Police Officer Brianna Gordon did not obtain medical treatment for § 87(2)(b)	

Case Summary

On July 17, 2019, § 87(2)(b) filed this complaint with the CCRB in person.

At approximately 2:00 p.m. on April 8, 2019, § 87(2)(b) was in a vehicle driven by her friend § 87(2)(b). In the vicinity of 116th Street and Lenox Avenue, Manhattan, an unmarked patrol vehicle pulled over § 87(2)(b) (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). Lt. Senta Caleb of the 28th Precinct approached the vehicle. Lt. Caleb told § 87(2)(b) and § 87(2)(b) they were under investigation for narcotics and asked them both to exit the vehicle. § 87(2)(b) and § 87(2)(b) exited the vehicle and were placed in handcuffs. Lt. Caleb leaned into the open doors of § 87(2)(b)'s vehicle (**Allegations C and D: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were removed to the 28th Precinct stationhouse. § 87(2)(b) and § 87(2)(b) were placed in holding cells. § 87(2)(b) asked PO Brianna Gordon to use the restroom. PO Gordon and Lt. Caleb escorted § 87(2)(b) to the restroom area. PO Gordon stood outside the restroom door and Lt. Caleb entered the restroom with § 87(2)(b). Lt. Caleb allegedly instructed § 87(2)(b) to remove her pants and underwear and § 87(2)(b) did so (**Allegation E: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) asked PO Gordon if she could not provide her with her medication for Lupus, PO Gordon needed to call an ambulance. After approximately two hours EMS arrived at the stationhouse and PO Gordon allegedly told § 87(2)(b) that if she wanted to see EMS she would need to “start the process over again” (**Allegation F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) refused medical treatment and was released with a summons for § 87(2)(b) she had in her purse. § 87(2)(b) was arrested.

Two requests for BWC were submitted. The first returned with negative results and the other will be added to the case file upon receipt.

Findings and Recommendations

Allegation (A) Abuse of Authority: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb stopped the vehicle in which § 87(2)(b) was an occupant.
Allegation (B) Abuse of Authority: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) was the driver of a black vehicle registered in Virginia and § 87(2)(b) was seated in the front passenger seat. There were no other individuals in the vehicle. Lt. Caleb, Sgt. Hernandez, and PO Montalvo were assigned to a Street Narcotics Enforcement Unit (SNEU) operation. The SNEU operation had an observation team, apprehension team, and a prisoner holding van. Lt. Caleb, PO Montalvo, and Sgt. Hernandez were assigned to the apprehension team. PO Fortune Douglas and Det. Alberto Pizzaro were assigned to the observation team. Lt. Caleb, in an unmarked patrol vehicle, stopped § 87(2)(b) and § 87(2)(b). § 87(2)(g)

§ 87(2)(b) stated in her CCRB interview (Board Review 01) that § 87(2)(b) picked her up after work at approximately 1:00 p.m., and at an unspecified time after being picked up she and § 87(2)(b) were pulled over by an unmarked vehicle. § 87(2)(b) denied that both she and § 87(2)(b) used narcotics.

Lt. Caleb and PO Montalvo testified at the CCRB (Board Reviews 02 and 03) that the observation team informed the apprehension team that they had observed a vehicle matching the description of § 87(2)(b)'s vehicle. There was no information regarding any additional individuals in the vehicle other than the suspected seller. The observation team informed the apprehension team that a female individual approached the parked vehicle, a transaction was performed at the window of the vehicle, and then the female individual walked away. The observation team informed the apprehension team that the vehicle had left the location of the sale.

PO Montlavo stated (Board Review 03) that the observation team had informed the apprehension team of the direction that § 87(2)(b)'s vehicle was traveling.

Lt. Caleb stated (Board Review 02) that the observation team provided a description of the buyer and that the apprehension team apprehended a female individual fitting that description. Crack-cocaine was recovered from the female individual and she was arrested. Lt. Caleb explained that during a SNEU operation, officers attempt to first apprehend the buyer then the seller. The observation team informed the apprehension team that the seller's vehicle had left the location. Based on the matching description provided by the observation team of the vehicle and the narcotics recovered from the buyer, Lt. Caleb stopped the vehicle to arrest any individuals inside for the association of narcotics sales.

Arrest paperwork (Board Reviews 04 and 05) for § 87(2)(b) and the female buyer, § 87(2)(b), both noted that Det. Pizzaro informed the apprehension team that he saw § 87(2)(b) and § 87(2)(b) engaged in a hand-to-hand transaction exchanging narcotics for US currency. The time of arrests note that § 87(2)(b) was arrested at 1:15 p.m. and § 87(2)(b) was arrested at 2:09 p.m.

Property vouchers (Board Review 06) noted that § 87(2)(b) had been in possession of approximately 88 dollars in US currency and § 87(2)(b) had been in possession of a pipe and crack-cocaine.

§ 87(2)(g)

According to People v. Cruz, 7 A.D3d 335 (Board Review 07), a narcotics field team, upon being informed by another officer of a hand-to-hand transaction, and being provided the description of the vehicle involved in the sale and the direction of travel, was justified in stopping the vehicle because they had probable cause to arrest the individual in the vehicle for the sale of narcotics.

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb searched the vehicle in which § 87(2)(b) was an occupant.
Allegation (D) Abuse of Authority: At West 116th Street and Lenox Avenue in Manhattan, Lieutenant Senta Caleb searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) and § 87(2)(b) were taken to the 28th Precinct stationhouse by additional responding units. § 87(2)(b)'s vehicle was taken back to the 28th Precinct stationhouse. At the time the vehicle was transported to the stationhouse, Lt. Caleb was the supervising officer on scene. § 87(2)(b)'s vehicle was searched and the property inside was vouchered (Board Review 06). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) stated (Board Review 01) that upon being handcuffed and walked to the patrol vehicle, she turned around and observed the doors of § 87(2)(b) vehicle open and Lt. Caleb and PO Montalvo were leaning into the vehicle. § 87(2)(b) was unable to provide additional details regarding whether Lt. Caleb and PO Montalvo passed through the threshold of the vehicle because § 87(2)(b) was not wearing her prescription glasses at the time. She believed the vehicle had been searched because § 87(2)(b) later informed her he was provided a bag with belongings he had in the vehicle upon being released.

Lt. Caleb stated (Board Review 02) that once § 87(2)(b) and § 87(2)(b) were in custody of the responding officers to transport them to the stationhouse, she opened the front door to § 87(2)(b)'s vehicle. Lt. Caleb got into the vehicle and drove it to the stationhouse. No other officer present opened any door to the vehicle, got into the vehicle, or assisted Lt. Caleb in transporting the vehicle. Lt. Caleb nor any other officer at West 116th Street and Lenox Avenue in Manhattan performed a search on the vehicle. At the 28th Precinct stationhouse PO Montalvo and Det. Pizzaro searched the vehicle as arrest evidence.

PO Montalvo stated (Board Review 03) that he did not recall any officer entering § 87(2)(b)'s vehicle at West 116th Street and Lenox Avenue in Manhattan other than to drive the vehicle to the stationhouse. PO Montalvo did not recall who drove the vehicle to the stationhouse. At the 28th Precinct stationhouse, § 87(2)(b)'s vehicle was searched. PO Montalvo did not recall who performed the search or whether anything was recovered.

§ 87(2)(g)

§ 87(2)(g)

According to People v. Roman, 96 A.D.2d 953 (Board Review 08) upon observing a narcotic sale out of the window of a parked vehicle, officers were justified in the warrantless search of the vehicle because, as established by People v. Belton, 55 NY2d 49, a search of a vehicle may be performed when valid arrests of the occupants is made and there is reason to believe the vehicle may contain evidence related to the crime for which the occupants were arrested.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: At the 28th Precinct stationhouse in Manhattan,
Lieutenant Senta Caleb strip-searched § 87(2)(b)

It is undisputed that Lt. Caleb was present during the vehicle stop and at the moment § 87(2)(b) was handcuffed. § 87(2)(b) was taken to the 28th Precinct stationhouse and placed into a holding cell. Lt. Caleb is a 5'6" tall black female with long brown deadlocks.

§ 87(2)(b) stated (Board Review 01) that the second time she asked PO Gordon to use the restroom PO Gordon told her that she needed to wait for her arresting officer. Lt. Caleb and PO Gordon walked § 87(2)(b) to an area in the stationhouse where there were multiple restrooms. § 87(2)(b) did not recall the path taken to get to the restrooms. Only § 87(2)(b) PO Gordon and Lt. Caleb were present. The restroom door was opened and § 87(2)(b) entered followed by Lt. Caleb. PO Gordon waited outside the restroom door. The door was closed and only § 87(2)(b) and Lt. Caleb were in the restroom. Lt. Caleb told § 87(2)(b) that before she used the restroom she would need to be searched. Lt. Caleb told § 87(2)(b) to, over her shirt, grab the bottom band of her bra and shake it. § 87(2)(b) did so. Lt. Caleb told § 87(2)(b) to turn around, pull down her pants and underpants, and to bend over. § 87(2)(b) did as Lt. Caleb asked. Lt. Caleb did not touch § 87(2)(b) and only looked. § 87(2)(b) used the restroom and Lt. Caleb, PO Gordon, and § 87(2)(b) walked back to the holding cell.

Lt. Caleb stated (Board Review 02) that she was in the stationhouse for approximately 20 minutes after she arrived with § 87(2)(b)'s vehicle. Lt. Caleb was presented with the physical description provided by § 87(2)(b) and Lt. Caleb stated that she was not aware of any other officer matching the description other than she. § 87(2)(b) was brought to the front desk prior to being placed in a holding cell. Lt. Caleb was on the phone with the observation team and PO Gordon searched § 87(2)(b). Lt. Caleb did not pay attention because she was on the phone but that PO Gordon most likely searched § 87(2)(b)'s waistband, pockets and underarms. PO Gordon was not informed of any details regarding why § 87(2)(b) was at the stationhouse. No other officer performed a search of § 87(2)(b). Lt. Caleb explained that when she performs searches on female individuals she requests that over their shirts they grab the bottom band of their bras and shake them. Lt. Caleb did not recall at any point she requested § 87(2)(b) to do this. Lt. Caleb denied PO Gordon asked § 87(2)(b) to lift and shake out her bra. Lt. Caleb denied that she had searched § 87(2)(b) at any point during the incident. PO Gordon walked § 87(2)(b) to the holding cell and did not have any further interaction with § 87(2)(b). Lt. Caleb denied having any further interaction with § 87(2)(b). Lt. Caleb did not see PO Gordon after she placed § 87(2)(b) in the holding cell. Lt. Caleb did not recall escorting § 87(2)(b) to the restroom in the stationhouse. Lt. Caleb stated that informing someone that they needed to be searched prior to using a restroom sounded like something she would say. Lt. Caleb denied asking

§ 87(2)(b) to remove her clothing. Lt. Caleb denied asking § 87(2)(b) to lower her pants and underpants, and then bend over.

Lt. Caleb denied § 87(2)(b) was strip-searched nor did she authorize a strip-search. Lt. Caleb explained that to conduct a strip-search, an officer would need to have observed an individual make a gesture, i.e. placing an object underclothes at the front of their pants or moving back and forth excessively while being transported, to reasonably believe they were concealing narcotics under their clothing. Lt. Caleb did not believe § 87(2)(b) had any narcotics on her person nor did any officer inform Lt. Caleb that they believed § 87(2)(b) had narcotics on her person.

PO Gordon during her testimony at the CCRB (Board Review 09) stated that she had no independent recollection of the incident. PO Gordon was shown a photograph of § 87(2)(b) and she did not recognize her. PO Gordon did not have any independent recollection of either § 87(2)(b) or § 87(2)(b) at the stationhouse. PO Gordon did not recall any interaction § 87(2)(b) or any female prisoner at the stationhouse. PO Gordon did not recall a female prisoner being escorted to the restroom. PO Gordon did not recall escorting § 87(2)(b) to the restroom with any other officer. PO Gordon did not recall speaking with or seeing Lt. Caleb on the day of incident. PO Gordon did not recall and was not made aware of any strip-search having been conducted at the stationhouse. Strip-searches are performed only by lieutenants.

PO Montalvo stated (Board Review 03) stated that he and the apprehension team did not arrive at the stationhouse until approximately 5:45 p.m. PO Montalvo was at the front desk computer processing his arrests and he was not able to see the holding cells from where he was seated. He did not know who processed § 87(2)(b) at the stationhouse. PO Montalvo did not observe any officer escort § 87(2)(b) to the bathroom area, nor was PO Montalvo informed that § 87(2)(b) had used the bathroom. PO Montalvo was not informed by any officers that a strip-search was conducted on § 87(2)(b). PO Montalvo explained that when an individual suspected of possession of narcotics is processed, the individual is brought back to the precinct stationhouse, searched at the front desk and sometimes a strip-search is performed under supervision of a supervisor. PO Montalvo explained strip searches are documented in the command book. Only a supervisor can document strip-searches.

The Command Log (Board Review 10) does not have noted a strip-search of § 87(2)(b)

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (F) Abuse of Authority: At the 28th Precinct stationhouse in Manhattan, Police Officer Brianna Gordon did not obtain medical treatment for § 87(2)(b)

It is undisputed that PO Gordon was in the 28th Precinct stationhouse from 2:00 p.m. until 7:45 p.m. § 87(2)(b) was in the stationhouse from 2:20 p.m. until 7:45 p.m. Upon entering the 28th Precinct stationhouse, there is the front desk and around to the right of the desk is the juvenile room. The prisoner holding cells are not visible from the juvenile room.

§ 87(2)(b) stated (Board Review 01) that she had previously been diagnosed with Lupus. Because of this § 87(2)(b) takes medication that she kept with her in her personal belongings. While in the holding cell, § 87(2)(b) began to feel ill and informed PO Gordon of her diagnosis, and she needed access to her medication. § 87(2)(b) told PO Gordon if she was not able to provide her with her medication, an ambulance needed to be called to the stationhouse. PO Gordon walked away and then returned. PO Gordon told § 87(2)(b) EMS was on their way. EMS arrived at the stationhouse approximately two to three hours after § 87(2)(b) requested medical treatment. PO Gordon told § 87(2)(b) that to be seen by EMS she needed to “start the process again” which § 87(2)(b) believed was the arrest process. § 87(2)(b) refused medical treatment because she did not want to begin the arrest process again while feeling ill.

PO Gordon stated (Board Review 09) that she had no independent recollection of the incident. PO Gordon was shown a photograph of § 87(2)(b) and she did not recognize her. PO Gordon did not have any independent recollection of either § 87(2)(b) or § 87(2)(b) at the stationhouse. PO Gordon did not recall any interaction § 87(2)(b) or any female prisoner at the stationhouse. PO Gordon did not recall any individual requesting medical assistance at the stationhouse. PO Gordon did have a conversation regarding an individual’s diagnosis of Lupus but she did not recall when or with whom. PO Gordon did tell anyone that she was to be looked over by EMS, she would have to be processed again. PO Gordon denied refusing to obtain medical treatment for any individual.

Lt. Caleb stated (Board Review 02) that § 87(2)(b) did not ask her for medical treatment. Lt. Caleb was not made aware of § 87(2)(b) requesting an ambulance to the stationhouse. PO Gordon did not inform Lt. Caleb of any incident with an individual requesting an ambulance. Lt. Caleb was not aware of any officer informing an individual that if they were to be seen by EMS they would need to be processed again.

The Command Log (Board Review 10) does not have noted that EMS arrived that the stationhouse.

§ 87(2)(g)
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Civilian and Officer CCRB Histories

- This is the first CCRB complaint § 87(2)(b) has been a party (Board Review 11).
- This is the first CCRB complaint § 87(2)(b) has been a party (Board Review 12).
- PO Gordon has been a member-of-service for four years and she has no prior CCRB allegations.
- Lt. Caleb has been a member-of-service for 15 years and has had eight CCRB allegations in six prior cases none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- As of March 30, 2020, the New York City Officer of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Reviews 15 and 16).

Squad No.: 15

Investigator: Valentina Concha-Toro March 30, 2020
Signature Print Title & Name Date

Squad Leader: Simon Wang 04/15/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date